

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3
4 ANDI KRAJA,

2:15-CV-01983-JAD-NJK

5 Plaintiff(s),

6 v.

**ORDER SCHEDULING
SETTLEMENT CONFERENCE**

7 BELLAGIO, LLC, et al.,

8 Defendant(s).
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11 A settlement conference utilizing Zoom video conferencing technology is
12 scheduled to commence on **Tuesday, April 20, 2021 at 9:00 a.m.** before United States
13 Magistrate Judge Carla Baldwin. The court will send an email containing information
14 required to join the Zoom video conference prior to the hearing date.

15 All counsel of record who will be participating in the trial of this case, all parties
16 appearing pro se, if any, and all individual parties must be present and participate in the
17 Zoom video settlement conference.¹ **In the case of non-individual parties, counsel**
18 **shall arrange for a representative with binding authority to settle this matter up to**
19 **the full amount of the claim and to be present on the video conference for the**
20 **duration of the settlement conference.**

21 All parties and counsel should make arrangements to be present at the video
22 settlement conference for the entire day. Every effort should be made to avoid
23 scheduling obligations that will interfere with or shorten the full day of settlement
24 negotiations. If any party is subject to coverage by an insurance carrier, then a
25 representative of the insurance carrier, with authority to settle this matter up to the full
26

27 ¹Counsel shall make necessary arrangements for their clients to appear by video
28 conference and no later than two days prior to the settlement conference shall provide
Lisa Mann, Courtroom Administrator, at lisa_mann@nvd.uscourts.gov with the
information necessary to permit their clients' appearance by video conference.

1 amount of the claim, must also be present via video conference for the duration of the
2 settlement conference.

3 **PREPARATION FOR SETTLEMENT CONFERENCE**

4 **I. ATTENDANCE OF COUNSEL AND CLIENT OR CLIENT REPRESENTATIVE**

5 Unless excused by order of the Court, clients or client representatives with
6 complete authority to negotiate and consummate a settlement shall be in attendance at
7 the video settlement conference. This requires the presence of the client or if a
8 corporate, governmental, or other organizational entity, an authorized representative of
9 the client. For a defendant, such representative must have final settlement authority to
10 commit the organization to pay, in the representative's own discretion, a settlement
11 amount up to the plaintiff's prayer, or up to the plaintiff's last demand, whichever is lower.
12 For a plaintiff, such representative must have final authority, in the representative's own
13 discretion, to authorize dismissal of the case with prejudice, or to accept a settlement
14 amount down to the defendant's last offer.

15 If board approval is required to authorize settlement, the attendance by video of at
16 least one sitting member of the board (preferably the chairperson) is absolutely required.
17 Any insurance company that is a party or is contractually required to defend or to pay
18 damages, if any, assessed within its policy limits in this case must have a fully
19 authorized settlement representative present. Such representative must have final
20 settlement authority to commit the company to pay, in the representative's own
21 discretion, an amount within the policy limits, or up to the plaintiff's last demand,
22 whichever is lower.

23 **The purpose of these requirements is to have in attendance a representative**
24 **who has both the authority to exercise his or her own discretion, and the realistic**
25 **freedom to exercise such discretion without negative consequences, in order to**
26 **settle the case during the settlement conference without consulting someone else**
27 **who is not present.** In the event counsel for any party is aware of any circumstance
28 which might cast doubt on a client's compliance with these provisions, s/he shall

1 immediately discuss the circumstance with opposing counsel to resolve it well before the
2 settlement conference, and, if such discussion does not resolve it, request a telephone
3 conference with the court and counsel.

4 Counsel appearing for the settlement conference without their client
5 representatives or insurance company representatives, authorized as described above,
6 will cause the settlement conference to be canceled or rescheduled. The non-complying
7 party, attorney or both may be assessed the costs and expenses incurred by other
8 parties and the court as a result of such cancellation, as well as any additional sanctions
9 deemed appropriate by the court. Counsel are responsible for timely advising any
10 involved non-party insurance company of the requirements of this order.

11 II. PURPOSE OF THE SETTLEMENT CONFERENCE

12 The purpose of the settlement conference is to facilitate settlement of this case. It
13 will be conducted in such a manner as not to prejudice any party in the event settlement
14 is not reached. To that end, all matters communicated to the undersigned in confidence
15 will be kept confidential, and will not be disclosed to any other party, or to the trial judge.
16 The undersigned, of course, will not serve as the trial judge in this case.

17 At the settlement conference the parties, by counsel, shall be prepared to outline
18 the factual and legal highlights of their case. Then separate, confidential caucuses will
19 be held with each party and the party's representative(s). Attached is an outline for
20 counsel to review with the parties prior to the settlement conference to make the best
21 use of the limited time allotted.

22 The requirement for parties' personal appearance is intended to increase the
23 efficiency and effectiveness of the settlement conference, by reducing the time for
24 communication of offers and expanding the ability to explore options for settlement.

25 III. PRE-CONFERENCE NEGOTIATIONS

26 Settlement conferences are often unproductive unless the parties have
27 exchanged demands and offers before the conference and made a serious effort to
28 settle the case on their own. **Before arriving at the settlement conference the parties**

1 **are to negotiate and make a good faith effort to settle the case without the**
 2 **involvement of the Court. Specific proposals and counter proposals shall be**
 3 **made.** Plaintiff(s) shall make an offer to defendant(s) ten (10) days prior to the
 4 settlement conference. Defendant(s) shall make a counteroffer to plaintiff(s) five (5)
 5 days prior to the settlement conference. The parties shall provide copies of the offer and
 6 counteroffer to the court via email to Debra_Newman@nvd.uscourts.gov. If the parties
 7 do not wish to follow this procedure, they must obtain leave of court prior to the
 8 compliance deadline. If the parties fail to present specific proposals and counter
 9 proposals prior to the settlement conference, sanctions may be imposed by the court if
 10 appropriate.

11 If settlement is not achieved before the settlement conference, the parties shall be
 12 prepared to engage in further negotiation at the conference.

13 IV. THE SETTLEMENT CONFERENCE STATEMENT

14 In preparation for the settlement conference, the attorneys for each party shall
 15 submit a confidential settlement conference statement for the Court's *in camera* review.
 16 The settlement conference statement shall be limited to seven (7) pages and contain the
 17 following:

- 18 1. A brief statement of the nature of the action;
- 19 2. A brief analysis of the key issues involved in the litigation;
- 20 3. A discussion of the strongest points in your case, both legal and factual,
 21 and a frank discussion of the weakest points as well;
- 22 4. A further discussion of the strongest and weakest points in your opponent's
 23 case, but only to the extent that they are more than simply the converse of the weakest
 24 and strongest points in your case;
- 25 5. A history of settlement discussions held to date, including the current
 26 status of settlement discussions between the parties, and the last settlement proposal
 27 made by you and to you;
- 28 6. The settlement proposal that you believe would be fair;

1 7. The settlement proposal that you would honestly be willing to make in
2 order to conclude this matter and stop the expense of litigation;

3 8. You are required to attach proof of the specific proposals and counter
4 proposals made prior to the settlement conference pursuant to Section III of this order;

5 9. You may attach to your statement those documents or exhibits which are
6 especially relevant to key factual or legal issues, including selected pages from
7 deposition transcripts or responses to other discovery requests.

8 The settlement conference statements may be emailed to chambers by emailing
9 the Court's Judicial Assistant at debra_newman@nvd.uscourts.gov or may be mailed to
10 chambers at 400 S. Virginia St., Room No. 404, Reno, Nevada 89501. The settlement
11 conference statements are due by no later than **4:00 p.m. on Tuesday, April 13, 2021.**
12 **DO NOT DELIVER OR MAIL THEM TO THE CLERK'S OFFICE; DO NOT SERVE A**
13 **COPY ON OPPOSING COUNSEL.**

14 The purpose of the settlement conference statement is to assist the Court in
15 preparing for and conducting the settlement conference. In order to facilitate a
16 meaningful conference, your utmost candor in responding to the above-listed questions
17 is required. The confidentiality of each statement will be strictly maintained in my
18 chambers. Following the conference, the settlement conference statements will be
19 destroyed.

20 DATED this 24th day of March, 2021.

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23 CARLA BALDWIN
24 UNITED STATES MAGISTRATE JUDGE
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1 insurance carrier, with authority to settle this matter up to the full amount of the claim,
2 must also be present in court for the duration of the settlement conference.

3 D. NEGOTIATIONS

4 1. Where did your last discussions end? Are you sure?

5 2. Schedule with opposing party: discussions before the settlement
6 conference to make it proceed more efficiently? At least one offer and response is
7 required.

8 3. What value do you want to start with? Why? Have you discussed this with
9 your client?

10 4. What value do you want to end with? Why? Have you discussed this with
11 your client? Is it significantly different from values you have placed on this case at other
12 times? Does your client understand why?

13 5. Is there confidential information which affects case value? Why
14 can't/won't/ shouldn't it be disclosed? How can the other side be persuaded to change
15 value if it doesn't have this information?

16 6. What happens if you don't settle the case at the conference? What is your
17 best alternative to a negotiated settlement? Why? What might change the outcome of
18 the settlement conference? Pending motions, discovery, expert's report, etc.

19 E. CLOSING

20 1. If settlement is reached, it will be on the record.

21 2. Have you discussed settlement formats with your client? Does the client
22 understand structured settlements, annuities, Rule 68 offers to compromise?

23 3. How soon could checks/closing documents be received?

24 4. If settlement is not reached, and further discovery is needed, what is your
25 plan for continuing settlement discussions? Do you want court involvement in these
26 talks?

27 5. If settlement is not reached, be prepared to discuss it again at the Pretrial
28 Conference.